

1 FISHER & PHILLIPS LLP  
2 DAVID B. DORNAK, ESQ.  
3 Nevada Bar No. 6274  
4 ALLISON L. KHEEL, ESQ.  
5 Nevada Bar No. 12986  
6 300 S. Fourth Street, Suite 1500  
7 Las Vegas, Nevada 89101  
Telephone: (702) 252-3131  
E-Mail Address: [ddornak@fisherphillips.com](mailto:ddornak@fisherphillips.com)  
E-Mail Address: [akheel@fisherphillips.com](mailto:akheel@fisherphillips.com)  
*Attorneys for Defendants*

UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

IT IS HEREBY STIPULATED AND AGREED by the Parties' counsel of record that all discovery (including the issuance of a discovery plan and scheduling order in this case) be stayed, pending the Court's decision on Defendants' Motion to Compel Arbitration (ECF No. 18). The Parties further jointly request that the Early Neutral Evaluation ("ENE") Conference set for February 6, 2024, be vacated and the Court stay the further scheduling of a future ENE Conference until the Court has issued a decision on Defendants' Motion to Compel Arbitration.

Defendants have filed a Motion to Compel Arbitration, which is fully briefed and currently pending decision by the Court. Any attempt to conduct merit-based discovery before a determination on the issue of arbitrability is resolved “puts the cart

1 before the horse.” *See CIGNA Healthcare of St. Louis, Inc. v. Kaiser*, 294 F.3d 849,  
2 855 (7th Cir. 2002); *Klepper v. SLI, Inc.*, 45 Fed. Appx. 136, 139 (3d Cir. 2002).  
3 Indeed, the Ninth Circuit has held that if a party is required to proceed with discovery  
4 while the enforceability of an arbitration agreement is still being litigated “the  
5 advantages of arbitration—speed and economy—are lost forever” and that such a loss is  
6 serious and “perhaps, irreparable.” *Alascom, Inc. v. ITTN Elec. Co.*, 727 F.2d 1419,  
7 1422 (9th Cir. 1984); *see Winig v. Cingular Wireless*, No. C-06-4297-MMC, 2006 U.S.  
8 Dist. LEXIS 83116, at \*6 (N.D. Cal. Nov. 6, 2006).

9       The Parties wish to avoid the time and cost of discovery until the Court has  
10 resolved the issue of the proper forum for this matter and decided Defendants’ Motion  
11 to Compel Arbitration. *See Mundi v. Union Sec. Life Ins. Co.*, No. CVF-06-1493, 2007  
12 U.S. Dist. LEXIS 64012, at \*16-17 (E.D. Cal. Aug. 15, 2007). Defendants are  
13 additionally concerned that participating in discovery and other proceedings while the  
14 Motion to Compel Arbitration is pending could be viewed as a waiver of their position  
15 that the matter should be arbitrated.

16       Therefore, the Parties have agreed and request that all discovery and associated  
17 discovery deadlines in this case be stayed pending resolution of Defendants’ Motion to  
18 Compel Arbitration. The Parties further agree and request an order that the pending  
19 ENE Conference be vacated and scheduled for a new date if Defendants’ Motion to  
20 Compel Arbitration is denied.

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This is the Parties' first request for a stay in this matter and is made in good faith and not for the purpose of delay.

Dated this 12<sup>th</sup> day of January, 2024.

4	FISHER & PHILLIPS LLP	JENNINGS & FULTON, LTD.
5		
6	By: <u>/s/ Allison L. Kheel, Esq.</u>	By: <u>/s/ Logan G. Willson, Esq.</u>
7	DAVID B. DORNAK, ESQ.	ADAM R. FULTON, ESQ.
8	ALLISON L. KHEEL, ESQ.	LOGAN G. WILLSON, ESQ.
9	300 S. Fourth Street, Suite 1500	2580 Sorrel Street
10	Las Vegas, Nevada 89101	Las Vegas, Nevada 89146
	<i>Attorneys for Defendants</i>	<i>Attorneys for Plaintiff</i>

## **ORDER**

## **IT IS SO ORDERED.**

UNITED STATES MAGISTRATE JUDGE

1/15/2024

DATED